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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,873	12/09/2003	John W. Matthews	SF-1	6841

25917 7590 08/09/2006

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EXAMINER

HAN, JASON

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/732,873	MATTHEWS ET AL.	
	Examiner	Art Unit	
	Jason M. Han	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☒ Claim(s) 8-10, 14, 15 and 17-19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the controller, the switch, and the "at least two independent electrical paths, each electrical path extending from the first end to the second end". The rationale behind considering the omitted structural cooperative relationships of elements as being critical or essential is provided in Paragraph 26 of Applicant's specification, which states, "The second path provided by the sleeve allows the switch to connect directly with the controller over two paths, so that the controller may detect a resistance presented by the switch to determine its state, as will be discussed below. The second path further ensures that the switch is not serially connected in the loop with the primary current flow from the battery to the lamp, avoiding parasitic losses due to switch resistance". The Examiner believes that the main patentability of the invention is elucidated by the above recitation and better ties the two independent paths with the controller and switch. At present, the Applicant

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is merely claiming an aggregate list of components with no clarity as to how they relate to one another, and fails to bring out the main patentable feature as cited by the Applicant in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Chapman (U.S. Publication 2004/0190286).

4. With regards to Claim 1, Chapman discloses a flashlight including:

- A lamp [Figures 21, 36, 40: (306)];
- A power storage element [Figures 21, 36, 40: (90)];
- A switch [Figures 21, 36, 40: (382)];
- An electronic controller [Figures 21, 36, 40: (314)];
- The controller having a switch input connected to the switch [via Figure 36: (372); Page 6, Paragraph 91];
- The controller being operable in response to the input to deliver power from the power storage element to the lamp [Page 6, Paragraph 91]; and

- The flashlight having an elongated housing [Figure 21: (312)] having the lamp [Figure 21: (306)] at a first end and the switch [Figure 21: (382)] at an opposed second end, and including at least two independent electrical paths between the first and second ends [Figures 21, 36: (372)], each electrical path extending from the first end to the second end [note Page 6, Paragraph 84, whereby, "One or more wires 372 extending rearwardly from the circuitry module 314 are attached and electrically connected to the contact ferrule 366"].
5. With regards to Claim 2, Chapman discloses the switch being operably connected directly to the switch input [via Figure 36: (372); Page 6, Paragraph 91].
 6. With regards to Claim 3, Chapman discloses the controller, lamp, and power storage element being connected to each other via a power circuit bypassing the switch, such that the current for illuminating the lamp does not pass through the switch. It should be noted that the switch [Figure 36: (382)] of Chapman is an alternate design/embodiment for a dimming function of the flashlight and can be bypassed, whereby if the main switch [Figure 40: (60)] is on, then the controller, lamp, and power storage element are connected to each other while bypassing said dimmer switch [Figure 40: circuit diagram for the flashlight of Figures 21 and 36].
 7. With regards to Claim 4, Chapman discloses the switch being operable within a range of conditions and is operable to transmit an electrical state corresponding to a condition to the controller [Page 6, Paragraph 91].

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8. Claims 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Galli (U.S. Patent 6,976,766).

9. With regards to Claim 11, Galli discloses a flashlight including:

- A lamp [Figure 1: (22)];
- A power storage element [Figure 1: (28)];
- A switch [Figure 4];
- An electronic controller [Figures 5-6: (48); Column 5, Lines 10-15] connected to each of the power storage element, the lamp, and the switch;
- Whereby the controller is operable in response to an electrical signal from the switch to provide momentary illumination of the lamp during an application of a first degree of force in a selected direction, and to cease illumination of the lamp in response to cessation of the force [Column 6, Lines 57-60]; and
- Whereby the controller is operable to provide sustained illumination of the lamp in response to application of a greater second degree of force in the selected direction, and to maintain illumination of the lamp in response to cessation of the force [Column 6, Lines 63-65].

10. With regards to Claim 12, Galli discloses the controller being operable while providing sustained illumination after cessation of the force to cease illumination in response to a second application of force [Column 6, Line 65 – Column 7, Line 3].

Allowable Subject Matter

11. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

12. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, as well as having addressed the formal requirements of the 112, 2nd Paragraph rejection above.

13. The following is a statement of reasons for the indication of allowable subject matter: With regards to Dependent Claim 5, the Applicant has sufficiently claimed and defined the switch to include a plurality of different electrical states in addition to an off state, whereby the prior art of Chapman fails to teach or suggest the combination of structural limitations claimed therein, specifically to the dimmer switch [Figures 21, 36: (382)] having an off state, and all subsequent dependent claims would be allowable.

14. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter: The Applicant has sufficiently claimed and defined the switch to include a plurality of contacts, at least one of which having an associated resistor connected to present a net resistance to the controller based on the degree of force applied to the

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switch, whereby the prior art fails to teach or suggest the combination of structural limitations claimed therein.

16. Claims (8-10, 18), (14-15, 19), and 17 are allowed.

17. The following is an examiner's statement of reasons for allowance:

a. With regards to Independent Claim 8, the Applicant has sufficiently amended and defined a flashlight including a switch electrically connected to a controller, whereby the switch is operable within a range of conditions, in addition to an off state, such that it transmits an electrical state corresponding to a condition to the controller, wherein the electrical state is based on a degree of externally applied force, and the switch is biased to the off state. The prior art of record fails to teach or suggest the combination of structural elements claimed herein, specifically the switch transmitting an electrical state based on a degree of externally applied force to the controller and wherein the switch is biased to an off state, and all subsequent dependent claims are allowed.

b. With regards to Independent Claim 14, the Applicant has sufficiently claimed and defined a flashlight including a lamp, a switch, a power storage element, a dimmer facility, and an electronic controller. The prior art fails to teach or suggest the combination of structural limitations claimed therein, specifically to the controller being operable to provide illumination of the lamp at the dimmed output level in response to an application of a first degree of force on the switch, only during the duration of application of such force, and the controller being operable to provide illumination of the lamp at the maximum output level in

response to application of a greater second degree of force on the switch, only during the duration of application of such force. All subsequent dependent claims are allowed.

c. With regards to Independent Claim 17, the Applicant has sufficiently claimed and defined a method of operating a flashlight including a light source with variable light output up to a maximum output level, a first control operable to establish an intermediate dimmed level, and a separate switch operable through a range of conditions ranging between a released position and a fully actuated position. The prior art fails to teach or suggest the combination of structural limitations claimed therein, specifically:

- i. Operating the first control to establish a dimmed level at an output less than the maximum level;
- ii. In response to actuating a switch to an intermediate condition between the released position and the fully actuated position by maintaining a first degree of force, illuminating the light source at the dimmed level;
- iii. In response to actuating the switch to the fully actuated condition by maintaining a second degree of force greater than the first degree of force, illuminating the light source at the maximum level; and
- iv. In response to cessation of force ceasing the illumination of the light source.

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18. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

19. Applicant's arguments with respect to Claims 1-3 and 11-12 have been considered but are moot in view of the new ground(s) of rejection.

20. In response to Applicant's argument, "The amendment to claim 1 should clarify and distinguish from Chapman, because the action does not identify any element in the cited reference that discloses the independent electrical paths, each extending from one end to the other", the Examiner maintains that the prior art is commensurate to the scope of the claim as broadly interpreted and as stated by Applicant within the context of the claim language [MPEP 2111], said interpretation elucidated in the rejection below. In response to Applicant's primary argument concerning Claim 4, "there is no evidence that either cited switch is operable within a range of conditions to transmit to the controller an electrical state corresponding to the condition", Chapman teaches, "a pivotable or rotatable end knob 382 is provided in place of the push button", whereby, "The end knob is mechanically connected to a variable resistor 414 electrically connecting to the circuitry module 314 through the wire bundle 372... The variable resistor, as shown in FIG. 40, varies current flow through LED 306, thereby acting as a dimmer to adjust brightness" [Page 6, Paragraph 91].

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason M Han
Examiner
Art Unit 2875

JMH (7/31/2006)



THOMAS M. SEMBER
PRIMARY EXAMINER